

EXHIBIT B

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SIGNATURE <i>Pamela A. Wegner</i>	
NAME PAMELA A. WEGNER	DATE 10-17-05
TITLE DIRECTOR, RECORDS CENTER OPERATIONS	
NAME AND ADDRESS OF DEPOSITORY NARA-GREAT LAKES REGION (CHICAGO) 7358 SOUTH PULASKI ROAD CHICAGO, ILLINOIS 60629	

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NA FORM 13040 (10-88)

STUART CUNNINGHAM
UNITED STATES DISTRICT COURT

I.

INTRODUCTION

Plaintiffs, Commodity Futures Trading Commission ("Commission") and Tyrone C. Fahner ("Fahner"), Attorney General of Illinois, hereby allege that defendants HERITAGE CAPITAL ADVISORY SERVICES LTD., JEFFREY W. WEAVER and WARD A. WEAVER have engaged in, are engaging in, or are about to engage in acts and practices which constitute violations of Section 4m of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §6m. Accordingly, pursuant to Sections 6c and 6d of the Act, 7 U.S.C. §§13a-1 and 13a-2, plaintiffs bring this action to enjoin such acts and practices, to compel compliance with the provisions of the Act and to obtain an order of

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

JUDGE [Name]

COMMODITY FUTURES TRADING COMMISSION, and
TYRONE C. FAHNER, Attorney General
of Illinois,

Plaintiffs,

v.

HERITAGE CAPITAL ADVISORY SERVICES, LTD.,

JEFFREY W. WEAVER,

and

WARD A. WEAVER,

Defendants.

CIVIL ACTION NO. 82 C 575

COMPLAINT FOR TEMPORARY
RESTRAINING ORDER, PRE-
LIMINARY AND PERMANENT
INJUNCTIONS, AND OTHER
EQUITABLE RELIEF FOR
VIOLATIONS OF THE
COMMODITY EXCHANGE ACT,
AS AMENDED, 7 U.S.C.
§1 ET SEQ., AND REGULA-
TIONS THEREUNDER.

RECEIVED

SEP 28 1982

H. STUART CUNNINGHAM
UNITED STATES DISTRICT COURT

I.

INTRODUCTION

1. Plaintiffs, Commodity Futures Trading Commission ("Commission") and Tyrone C. Fahner ("Fahner"), Attorney General of Illinois, hereby allege that defendants HERITAGE CAPITAL ADVISORY SERVICES, LTD., JEFFREY W. WEAVER and WARD A. WEAVER have engaged in, are engaging in, or are about to engage in acts and practices which constitute violations of Section 4m of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §6m. Accordingly, pursuant to Sections 6c and 6d of the Act, 7 U.S.C. §§13a-1 and 13a-2, plaintiffs bring this action to enjoin such acts and practices, to compel compliance with the provisions of the Act and to obtain an order of

injunction, a protective order pendente lite, a freezing of defendants' assets, and if appropriate, appointment of a receiver, an accounting, disgorgement, and such other equitable relief which this Court deems necessary and appropriate under the circumstances.

II.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. §13a-1, which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act and any rules, regulations or orders thereunder.

3. Additionally this Court has jurisdiction over this action pursuant to Section 6d of the Act, 7 U.S.C. §13a-2, which authorizes the Attorney General of any State to seek injunctive relief against any person whenever it shall appear that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because a person has engaged in, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act and any rules, regulations or orders thereunder.

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4. Pursuant to Sections 6c and 6d of the Act, 7 U.S.C. §§13a-1 and 13a-2, venue lies in this judicial district, in that the alleged violations of the Act and Regulations have occurred, are occurring, or are about to occur in this district, and certain of the defendants are found in, inhabit or transact business in this district.

5. Unless restrained and enjoined by this Court, the defendants are likely to, and will continue to, engage in the acts and practices alleged in this Complaint, and in similar acts and practices, all as described more fully in paragraphs 6 through 29 below.

III.

THE PARTIES

A. Plaintiffs

6. The Commodity Futures Trading Commission is an independent federal regulatory agency which, since April 21, 1975, has been charged with the responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§1 et seq., and the Regulations promulgated thereunder, 17 C.F.R. §§1.0 et seq.

7. Tyrone C. Fahner is the Attorney General of Illinois and exercises such powers and prerogatives granted him by virtue of his Office as created under article 5, section 15 of the 1970 Illinois Constitution. Fahner brings this action

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for the benefit and on behalf of those residents of the State of Illinois, whose interests have been or may be adversely affected by the acts and practices of the defendants as alleged herein.

B. Defendants

8. Heritage Capital Advisory Services, Ltd. ("HERITAGE") is an Illinois Corporation, organized and incorporated on or about October 14, 1981. The principal place of business of HERITAGE and the location of its business records is 342 West Higgins Road, Schaumburg, Illinois 60195. HERITAGE is not now and has never been registered with the Commission in any capacity.

9. Jeffrey W. Weaver, Harris Road, Williams Bay, Wisconsin 53191, is president, and a shareholder and one of the chief operating officers of Heritage. He has been registered with the Commission as an associated person pursuant to Section 4k of the Act, 7 U.S.C. §6k, since February 11, 1981.

10. Ward A. Weaver, 112 N. Highland, Inverness, Illinois, is secretary and one of the chief operating officers of HERITAGE. He has been registered with the Commission as an associated person, pursuant to Section 4k of the Act, 7 U.S.C. 6k, since May 12, 1982.

IV.

Factual Background

A. Financial Partners Brokerage Ltd.,
and Robert B. Serhant

11. On September 23, 1982, the Commission filed in this Court a civil injunctive action against two residents of this District, Financial Partners Brokerage, Ltd., ("FPB") and Robert B. Serhant ("Serhant") (C.A. No. 82 C 5851, N.D. ILL.). The complaint in that action alleged in two counts cheating and defrauding in violation of Section 4b of the Act, 7 U.S.C. §6b.

12. On September 23, 1982 a temporary restraining order was issued by the Honorable Prentice Marshall, United States District Judge, restraining FPB and Serhant from the alleged violations of the Act, and imposing a freeze over all assets of those defendants.

13. On September 27, 1982, a preliminary injunction was entered by the Honorable George Leighton by consent of the parties, continuing the freeze on the assets of FPB and Serhant and the injunction against continued violations of the Act, and granting other equitable relief. That same day Judge Leighton placed FPB in receivership and appointed a Temporary Equity Receiver to conduct its affairs.

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14. The basis of that action was the fraudulent activities of FPB and Serhant in connection with the purchase of United States Treasury Bills and commodity futures contracts.

15. That Complaint alleged, and it is hereby alleged herein, that FPB offered three types of investment accounts. The first type is a regular futures trading account in which an investor deposits a sum of money to be invested solely in the futures markets for speculative purposes. The second type is an account in which an investor deposits funds, most of which is then used by FPB to purchase a United States Treasury Bill at the current discount rate. The additional amount of customer funds representing the difference between the face value of the United States Treasury Bill and its actual purchase price is then traded in the futures market. In the third type of account approximately two thirds of the customer funds are used to purchase a United States Treasury bill and the remaining one third is used to speculate in the futures market.

16. In addition to those three types of accounts, FPB and Serhant received investor funds solely for the purchase of United States Treasury Bills on behalf of those investors.

17. As to all types of accounts offered, FPB and Serhant have complete discretion in and control over the assets and funds of investors. As to the regular futures trading accounts, Serhant has been given powers of attorney from each customer. Pursuant

to that discretion and control FPB and Serhant actively handled the accounts and, in the regular futures trading account, has actively traded commodity futures on behalf of those customers.

18. Since at least September, 1981, however, Serhant and FPB have not been treating customer funds and other assets in accordance with the agreed types of investment accounts. Serhant has failed to maintain the investor funds in the United States Treasury Bills as required by his representations, but instead has been committing those T-Bills or cash obtained from the sale of those United States Treasury Bills to speculation in the futures markets. In addition, Serhant has been using the principal investment of some investors merely to pay small interest payments to others.

19. As a result of the failure of Serhant and FPB to maintain the customer funds invested in United States Treasury Bills in the proportion required by the agreement between FPB and the investors, all, or substantially all, of the investor funds placed with FPB has been lost in the futures market and otherwise.

B. Heritage, Jeffrey W. Weaver
and Ward A. Weaver

20. Since at least February, 1981, the defendants herein, HERITAGE, JEFFREY W. WEAVER and WARD A. WEAVER, have been affiliated with FPB and Serhant as sales agents for the FPB investment accounts programs.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED
DEC 80 1982

COMMODITY FUTURES TRADING
COMMISSION, and TYRONE C.
FAHNER, Attorney General of the
State of Illinois,

Plaintiffs,

v.

HERITAGE CAPITAL ADVISORY
SERVICES, LTD., JEFFREY W.
WEAVER, and WARD A. WEAVER,

Defendants.

No. 82 C 5955

Honorable Stanley J. Roszkowski
Presiding Judge

FILED

DEFENDANTS' ANSWER TO COMPLAINT

For their Answer to the Complaint for a Temporary Restraining Order, Preliminary and Permanent Injunctions, and other equitable relief for violations of the Commodity Exchange Act, defendants Heritage Capital Advisory Services, Ltd., Jeffrey W. Weaver, and Ward A. Weaver state as follows:

I.

INTRODUCTION

Paragraph 1

Plaintiffs, Commodity Futures Trading Commission ("Commission") and Tyrone C. Fahner ("Fahner"), Attorney General of Illinois, hereby allege that defendants HERITAGE CAPITAL ADVISORY SERVICES, LTD., JEFFREY W. WEAVER and WARD A. WEAVER have engaged in, are engaging in, or are about to engage in acts and practices which constitute violations of Section 4m of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §6m. Accordingly, pursuant to Sections 6c and 6d of the Act, 7 U.S.C. §§13a-1 and 13a-2, plaintiffs bring this action to enjoin such acts and practices, to compel compliance with the provisions of the Act and to obtain an order of injunction, a protective order pendente lite, a freezing of defendants' assets, and if appropriate, appointment of a receiver, an accounting, disgorgement, and such other equitable relief which this Court deems necessary and appropriate under the circumstances.

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Paragraph 16

In addition to those three types of accounts, FPB and Serhant received investor funds solely for the purchase of United States Treasury Bills on behalf of those investors.

Answer

Defendants are without sufficient information to form a belief as to the truth of the allegations of paragraph 16 of the Complaint.

Paragraph 17

As to all types of accounts offered, FPB and Serhant have complete discretion in and control over the assets and funds of investors. As to the regular futures trading accounts, Serhant has been given powers of attorney from each customer. Pursuant to that discretion and control FPB and Serhant actively handled the accounts and, in the regular futures trading account, has actively traded commodity futures on behalf of those customers.

Answer

Defendants admit that as to the single account offered by Serhant to Heritage investors, Serhant had complete control and discretion over investor funds and that defendants had no control or discretion over investor funds except as follows: Heritage solicited, combined and transmitted funds of investors to Serhant, transmitted information provided by Serhant and disbursed funds and earnings to investors when requested to do so. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations of paragraph 17 of the Complaint.

Paragraph 18

Since at least September 1981, however, Serhant and FPB have not been treating customer funds and other assets in accordance with the agreed types of investment accounts. Serhant has failed to maintain the investor funds in the United States Treasury Bills as required by his representations, but instead has been committing those T-Bills or cash obtained from the sale of those United States Treasury Bills to speculation in the futures markets. In addition, Serhant has been using the principal investment of some investors merely to pay small interest payments to others.

Answer

Defendants admit that Serhant failed to honor his agreement with Heritage and that this failure resulted in loss to Heritage investors. Defendants are without sufficient